

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the City of Newman, for an order authorizing the City to: construct Sherman Parkway Crossing over the tracks right of way of the California Northern Railroad Company in the City of Newman, Stanislaus County, State of California.

Application 01-06-025  
(Filed June 5, 2001)

**O P I N I O N****Summary**

The City of Newman (City) requests authority to construct the new, public at-grade Sherman Parkway Crossing (Crossing), and to delete (remove) two private crossings across the single track and right-of-way of the Union Pacific Railroad Company (UPRR) in Newman, Stanislaus County. The single track at the project location is currently leased to the California Northern Railroad Company (CNRR). The Crossing will be located between Public Utilities Commission (PUC) Crossing Nos. 001BA-119.20 and 001BA-118.10 at approximate Mile Post (MP) 118.5 of the UPRR tracks. The two private crossings to be deleted are located at approximate MPs 118.45 and 118.9, respectively, between Stuhr Road and Kern Street. A map of the project vicinity is set forth in Appendix A.

**Discussion**

The proposed at-grade Crossing will provide access to Sherman Parkway, a new arterial street that will be the primary point of entry into the new

Hearthstone Ranch Subdivision in Newman. The Hearthstone Ranch Subdivision will have 374 residential home sites, a 1.4-acre park, and an 11.6-acre elementary school site. This project is financed by developers. The public need for Sherman Parkway is to provide for the safe circulation of traffic flow and to facilitate fire protection access. The City Council of Newman has approved Sherman Parkway's arterial street alignment with adjacent streets. It is noted in the Newman General Plan that the proposed access is in compliance with the general transportation plan for the area. A traffic circulation analysis prepared for the City projects that the Hearthstone Ranch Subdivision will have an average daily traffic volume of 3,483 vehicles with much of it traveling across the proposed Crossing. There will be two freight trains per day through the Crossing, traveling at a speed no greater than 25 miles per hour. The Crossing will consist of an asphalt surface road 82 feet wide with two lanes in each direction that will connect to State Route (SR) 33. It is also proposed that at the Crossing and part way along Sherman Parkway, there will be a median (on both sides of the Crossing), vertical curb, gutter, bike path, and a 5-foot wide sidewalk.

The City states in its application that a grade separation at the Crossing is not practical. Furthermore, the City states that although it is practicable that a grade separation can be built, there are several reasons why it is considered impractical: 1) The relatively low train traffic and projected moderate vehicle traffic at the Crossing, 2) The proximity to SR 33 would result in a grade separation that would relocate several small businesses, homes, and farms that may result in a detrimental economic impact to local small businesses, and right-of-way disputes with farmers and homeowners reluctant to move, 3) Project delays may occur due to more environmental impact report (EIR) studies

involving rural land, 4) The rural nature and aesthetics of the surrounding area may be further damaged, and 5) Construction costs would likely be very expensive and outweigh the benefits of a grade separation at an “isolated” location where train and vehicle traffic volumes are expected to be low.

For public safety, the Crossing will have an active warning system that will consist of two Standard No. 9 automatic flashing light signals with gates compliant with General Order (GO) 75-C on either side of the railroad track for traffic in each direction (one of the two on either side will be median-mounted). More specifically, on the east side of the track for westbound traffic, one Standard No. 9 device will be installed on the right-hand side of the roadway (4 feet, 3 inches minimum from the face of the curb to the centerline of the signal mast, or if there is no curb, 8 feet, 3 inches minimum from the edge of the traveled way to the centerline of the signal mast), and the other Standard No. 9 device will be installed on the raised island median. Similarly, on the west side of the track for eastbound traffic, one Standard No. 9 device will be installed on the right-hand side of the roadway (4 feet, 3 inches minimum from the face of the curb to the centerline of the signal mast, or if there is no curb, 8 feet, 3 inches minimum from the edge of the traveled way to the centerline of the signal mast), and the other Standard No. 9 device will be installed on the raised island median. Preferably, each gate for the Standard No. 9 devices will have a maximum length of 32 feet, and the median on either side of the track will preferably have a minimum width of 9 feet and a length sufficient to prevent vehicles from going around it and its respective gate. In addition to the warning devices, there will be standard roadway markings and signage for railroad-highway grade crossings. Concrete panels (compliant with GO 72-B) for the surface of the Crossing are recommended.

As additional steps for safety of the Crossing, the City has recommended several traffic controls for the proposed intersection of Sherman Parkway and SR 33. These traffic controls will result in changes to SR 33 that will have to be approved by and installed under the direction of the Department of Transportation, State of California. The City's proposed traffic controls at this intersection and along SR 33 are as follows:

- a. Signalized intersection with preemption.
- b. Right-turn and left-turn lanes from SR 33 to Sherman Parkway.
- c. Deceleration/acceleration lanes along SR 33.
- d. Installation of W10-2 signs in both directions of SR 33.

In conjunction with this project, the City has come into agreement with landowners and UPRR to close two, adjacent private crossings located between Stuhr Road and Kern Street at approximate MPs 118.45 and 118.9, respectively.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code 21000 et. seq. On July 27, 2000, in compliance with CEQA, the City filed its Notice of Determination with the State Clearinghouse which approved the Hearthstone Ranch Project (of which this proposed Crossing is a part ), and in so doing, stated "the project will not have a significant effect on the environment." In May 2000, the City prepared a Hearthstone Ranch General Plan Amendment, Pre-Zone, Annexation, and Subdivision Initial Study and issued a Negative Declaration. The project site is within the area designated for urban development in the underlying Newman General Plan. In October 1992, the City adopted this General Plan and related EIR which addressed the potential impacts of urbanization within the City's planning area. In January 2000, the City prepared a Specific Plan to implement the General Plan land use policies and

guidelines for the Hearthstone Ranch Project. The Specific Plan was prepared in accordance with CEQA and was accompanied by a Negative Declaration.

The Hearthstone Ranch Specific Plan (Plan) recognizes the noise impact potential from both vehicular traffic and rail operations adjacent to the project area. In order to address this issue, an acoustical study was performed which identifies mitigation measures to bring noise levels within the residential use area to the acceptable exterior City standard of 60 decibels Ldn (day/night average sound level). The design mitigation measures for noise include the following: 1) Provide 150-foot deep lots along the rail right-of-way to mitigate vibration and 2) Construct a 9-foot tall barrier along the rail right-of-way, and a 6-foot tall barrier (wall) along the southerly right-of-way line of Sherman Parkway and along the southerly boundary of the project area from the rail right-of-way to Blue Bonnet Drive.

As mentioned earlier in this decision, the proposed access, Sherman Parkway, is in compliance with the general transportation plan for the area, as adapted in the Newman General Plan; thus, it is worth noting that in the Plan, traffic issues ( access and circulation) are also addressed. The Plan recognizes the importance of an efficient traffic circulation system to facilitate the ingress and egress from the Hearthstone Ranch Subdivision project area which will also not be detrimental to existing development in the immediate area. To address this issue, a traffic circulation analysis regarding the Hearthstone Ranch Subdivision project area was prepared by traffic engineers from Dowling Associates, Inc. and included in the Plan. The findings of this analysis include the following: 1) All of the project's internal streets are expected to carry volumes that are well within the levels that can be carried by the proposed two-lane streets, 2) The design for the Balsam, Eucalyptus, and Barrington street collectors is consistent with the Dowling Associates Circulation Analysis and the City's updated Circulation Element, 3) The project design provides for the new Sherman Parkway east-west

arterial (also consistent with the Dowling Associates Circulation Analysis and the City's updated Circulation Element), and 4) All intersections within the project can operate satisfactorily without traffic controls or with stop sign controls.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's EIR or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

The Commission has reviewed the City's environmental documentation as well as the above-identified environmental documents referenced by the City as establishing the adopted mitigation measures for the project. The environmental documentation included an analysis of potential environmental impacts including those related to land use and planning, agricultural resources, hydrology and water, mineral resources, aesthetics, cultural resources, biological resources, population and housing, hazards and hazardous materials, noise, transportation and traffic, and air quality.

Safety and security, transportation and noise are within the scope of the Commission's permitting process. The environmental documentation did not identify any potential impacts related to the safety and security of the project and surrounding area.

With respect to the potentially significant noise and transportation impacts identified above, the Commission finds that the City adopted feasible mitigation measures to either eliminate or substantially lessen those impacts.

The Commission's Rail Safety and Carriers Division (RSCD), Rail Crossings Engineering Section staff inspected the site of the proposed project. After reviewing the need for and safety of the proposed Crossing, the staff recommends that the requested authority be granted for a period of two years.

Application 01-06-025 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

In Resolution ALJ 176-3066 dated June 28, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. The Commission's RSCD recommends that this application be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3066.

This is an uncontested manner in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Findings of Fact**

1. Notice of the application was published in the Commission Daily Calendar on June 19, 2001. No protests have been filed.

2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct the new, public at-grade Crossing, and to delete two private crossings across the single track and right-of-way of the UPRR in Newman, Stanislaus County. The single track at the project location is currently leased to CNRR. The new Crossing will be located between Public Utilities Commission (PUC) Crossing Nos. 001BA-119.20 and 001BA-118.10 at approximate MP 118.5

of the UPRR tracks. The two private crossings to be deleted are located at approximate MPs 118.45 and 118.9, respectively, between Stuhr Road and Kern Street.

3. Public convenience, safety and necessity require the construction of the new, public at-grade Crossing in the City of Newman.

4. City is the lead agency for this project under CEQA, as amended.

5. The Commission is a responsible agency for this project, and has reviewed and considered the City's environmental documentation specified in this decision upon which the City relied in approving the project.

6. On July 27, 2001, the City filed its Notice of Determination approving the Hearthstone Ranch Project, which this project is a part of, and found that the project will not have a significant effect on the environment.

7. Safety, security, transportation and noise are within the scope of the Commission's permitting process.

8. The City's Notice of Determination and underlying Amended General Plan, Initial Study and Negative Declaration did not identify any significant environmental impacts related to issues within the scope of the Commission's permitting authority.

### **Conclusions of Law**

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

## **O R D E R**

### **IT IS ORDERED** that:

1. The City of Newman (City) is authorized to construct the new, public at-grade Sherman Parkway Crossing (Crossing), and to delete (remove) two private

crossings across the single track (leased to the California Northern Railroad Company) and right-of-way of the Union Pacific Railroad Company (UPRR) in Newman, Stanislaus County. The new Crossing will be identified as Public Utilities Commission (PUC) Crossing No. 001BA-118.5. The two private crossings to be deleted are located at approximate Mile Posts (MP) 118.45 and 118.9, respectively, of the UPRR tracks between Stuhr Road and Kern Street.

2. Public safety requires that the Crossing be protected with an active warning system that will consist of two Standard No. 9 automatic flashing light signals with gates compliant with General Order (GO) 75-C on either side of the railroad track for traffic in each direction (one of the two gates on either side will be median-mounted). More specifically, the warning devices will be arranged as follows: 1) On the east side of the track for westbound traffic, one Standard No. 9 device will be installed on the right-hand side of the roadway, and the other Standard No. 9 device will be installed on the raised island median and 2) Similarly, on the west side of the track for eastbound traffic, one Standard No. 9 device will be installed on the right-hand side of the roadway, and the other Standard No. 9 device will be installed on the raised island median. The preferred maximum gate length is 32 feet, and the preferred minimum median width is 9 feet with a length sufficient to prevent vehicles from going around it and its respective gate.

3. The City shall contact the Department of Transportation, State of California for its approval to install at the intersection of State Route (SR) 33 and the Crossing, and along SR 33, the following traffic controls:

- a. Signalized intersection with preemption.
- b. Right-turn and left- turn lanes from SR 33 to Sherman Parkway.
- c. Deceleration/acceleration lanes along SR 33.

- d. Installation of W10-2 signs in both directions of SR 33.
4. Clearances shall be in accordance with GO 26-D.
5. Walkways shall conform to GO 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.
6. Construction and maintenance costs shall be borne in accordance with an agreement that has been entered into between the parties. A copy of the agreement shall be filed by the City with the Commission's Rail Safety and Carriers Division (RSCD) prior to construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.
7. Prior to construction, the City shall file with RSCD final construction plans approved by UPRR.
8. The City shall inform the Rail Crossings Engineering Section of RSCD in writing within 30 days of the date of completion of this project.
9. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.
10. This application is granted as set forth above.

11. Application 01-06-025 is closed.

This order becomes effective 30 days from today.

Dated \_\_\_\_\_, at San Francisco, California.

